

109TH CONGRESS
2D SESSION

H. R. 5928

To direct the Secretary of Education to make grants and low-interest loans to local educational agencies for the construction, modernization, or repair of public kindergarten, elementary, and secondary educational facilities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2006

Mr. CHANDLER (for himself, Mr. GEORGE MILLER of California, Ms. WOOLSEY, Ms. MCCOLLUM of Minnesota, Mr. CONYERS, Mr. HOLT, Mr. HINOJOSA, Mr. GONZALEZ, Mr. CASE, Mr. OWENS, Mr. HOLDEN, Mr. DAVIS of Illinois, Mrs. TAUSCHER, Mr. MOORE of Kansas, Mr. STARK, Mr. COSTA, and Mr. PAYNE) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To direct the Secretary of Education to make grants and low-interest loans to local educational agencies for the construction, modernization, or repair of public kindergarten, elementary, and secondary educational facilities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “21st Century High-
5 Performing Public School Facilities Act of 2006”.

1 **SEC. 2. TABLE OF CONTENTS.**

2 The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Findings.
- Sec. 4. Definitions.

TITLE I—21ST CENTURY HIGH-PERFORMING PUBLIC SCHOOL
FACILITIES

Subtitle A—Grants for Construction, Modernization, or Repair of School
Facilities

- Sec. 101. Grants.
- Sec. 102. Allocation of funds.
- Sec. 103. Priority; criteria for awarding grants.
- Sec. 104. Authorized matching requirement.
- Sec. 105. Allowable uses of funds.
- Sec. 106. Application for grant.

Subtitle B—Low-Interest Loans for Construction, Modernization, or Repair of
School Facilities

- Sec. 111. Low-interest loans.
- Sec. 112. Revolving fund.

Subtitle C—General Provisions

- Sec. 121. Impermissible uses of funds.
- Sec. 122. Supplement, not supplant.
- Sec. 123. Maintenance of effort.
- Sec. 124. Special rule.
- Sec. 125. Fair wages.
- Sec. 126. Reporting.
- Sec. 127. Authorization of appropriations.

TITLE II—EDUCATIONAL TECHNOLOGY FUNDING

- Sec. 201. Educational technology funding.

3 **SEC. 3. FINDINGS.**

4 The Congress finds the following:

5 (1) The average public school building was built
6 in the early 1960's.

7 (2) Of the Nation's public school buildings, at
8 least one-third need extensive repair or replacement
9 and two-thirds have troublesome environmental con-

1 ditions such as the presence of asbestos or lead in
2 water and paint.

3 (3) In its 2005 report card on the Nation's
4 physical infrastructure, the American Society of
5 Civil Engineers gave our schools a D.

6 (4) The Nation's public schools need hundreds
7 of billions of dollars in construction, modernization,
8 and repair to bring them up to modern structural,
9 educational (including educational technology and
10 educational technology infrastructure), and health
11 standards.

12 (5) Improving the quality of public elementary
13 and secondary school facilities to make them safe,
14 healthy, high-performing, and up-to-date techno-
15 logically will help students improve their academic
16 performance and will improve teacher retention.

17 (6) Improving the quality of public elementary
18 and secondary school facilities is a matter of na-
19 tional importance, and the Federal government must
20 do more to help States and school districts fulfill
21 their responsibilities in this area.

22 **SEC. 4. DEFINITIONS.**

23 In this Act:

1 (1) The term “Bureau-funded school” has the
2 meaning given to such term in section 1141 of the
3 Education Amendments of 1978 (25 U.S.C. 2021).

4 (2) The term “charter school” has the meaning
5 given such term in section 5210 of the Elementary
6 and Secondary Education Act of 1965 (20 U.S.C.
7 7221i).

8 (3) The term “local educational agency”—

9 (A) has the meaning given to that term in
10 section 9101 of the Elementary and Secondary
11 Education Act of 1965 (20 U.S.C. 7801); and

12 (B) includes any public charter school that
13 constitutes a local educational agency under
14 State law.

15 (4) The term “outlying area”—

16 (A) means the United States Virgin Is-
17 lands, Guam, American Samoa, and the Com-
18 monwealth of the Northern Mariana Islands;
19 and

20 (B) includes the freely associated states of
21 the Republic of the Marshall Islands, the Fed-
22 erated States of Micronesia, and the Republic
23 of Palau.

24 (5) The term “Secretary” means the Secretary
25 of Education.

1 (6) The term “State” means each of the 50
2 States, the District of Columbia, and the Common-
3 wealth of Puerto Rico.

4 **TITLE I—21ST CENTURY HIGH-**
5 **PERFORMING PUBLIC**
6 **SCHOOL FACILITIES**

7 **Subtitle A—Grants for Construc-**
8 **tion, Modernization, or Repair**
9 **of School Facilities**

10 **SEC. 101. GRANTS.**

11 Each fiscal year, the Secretary of Education shall
12 make grants to local educational agencies in each State
13 for the purpose of constructing, modernizing, or repairing
14 public kindergarten, elementary, and secondary edu-
15 cational facilities that are safe, healthy, high-performing,
16 and up-to-date technologically.

17 **SEC. 102. ALLOCATION OF FUNDS.**

18 (a) RESERVATION.—From the amount appropriated
19 to carry out this subtitle for each fiscal year pursuant to
20 section 127, the Secretary shall reserve 1 percent of such
21 amount, consistent with the purpose described in section
22 101—

23 (1) to provide assistance to the outlying areas;
24 and

1 (2) for payments to the Secretary of the Inte-
2 rior to provide assistance to Bureau-funded schools.

3 (b) ALLOCATION OF GRANTS.—

4 (1) STATE-BY-STATE ALLOCATION.—From the
5 amount appropriated to carry out this subtitle for
6 each fiscal year pursuant to section 127, and not re-
7 served under subsection (a), the Secretary shall re-
8 serve for grants to local educational agencies in each
9 State an aggregate amount in proportion to the ag-
10 gregate amount received by all local educational
11 agencies in the State involved under part A of title
12 I of the Elementary and Secondary Education Act
13 of 1965 (20 U.S.C. 6311 et seq.) for the previous
14 fiscal year relative to the total amount received by
15 all local educational agencies in every State under
16 such part for such fiscal year.

17 (2) WITHIN-STATE ALLOCATION.—From the
18 amount reserved for grants to local educational
19 agencies in a State under paragraph (1), the Sec-
20 retary shall reserve for grants to local educational
21 agencies in the State that are receiving assistance
22 under section 1124A of the Elementary and Sec-
23 ondary Education Act of 1965 (20 U.S.C. 6334) an
24 aggregate amount that is at least in proportion to
25 the aggregate amount received by such local edu-

1 cational agencies under part A of title I of the Ele-
2 mentary and Secondary Education Act of 1965 (20
3 U.S.C. 6311 et seq.) for the previous fiscal year rel-
4 ative to the total amount received by all local edu-
5 cational agencies in the State under such part for
6 such fiscal year.

7 **SEC. 103. PRIORITY; CRITERIA FOR AWARDING GRANTS.**

8 (a) PRIORITY.—In awarding grants to local edu-
9 cational agencies under this subtitle, the Secretary shall
10 give priority to local educational agencies with greater—

11 (1)(A) numbers of children counted under sec-
12 tion 1124(c) of the Elementary and Secondary Edu-
13 cation Act of 1965 (20 U.S.C. 6333(c)); or

14 (B) percentages of children served who are
15 counted under section 1124(c) of the Elementary
16 and Secondary Education Act of 1965 (20 U.S.C.
17 6333(c)); and

18 (2) need for school construction, modernization,
19 or repair, as demonstrated by the condition of the
20 public school facilities.

21 (b) CRITERIA.—In awarding grants to local edu-
22 cational agencies under this subtitle, the Secretary shall
23 also consider the following criteria:

24 (1) The fiscal capacity of a local educational
25 agency to meet its needs for construction, mod-

1 ernization, and repair of public school facilities with-
2 out assistance under this subtitle, including the abil-
3 ity of the local educational agency to raise funds
4 through the use of local bonding capacity and other-
5 wise.

6 (2) In the case of a local educational agency
7 that proposes to fund a construction, modernization,
8 or repair project for one or more public charter
9 schools, the extent to which the schools have access
10 to funding for the project through the financing
11 methods available to other public schools or local
12 educational agencies in the State.

13 (3) The likelihood that the local educational
14 agency will maintain, in good condition, any facility
15 whose construction, modernization, or repair is as-
16 sisted under this subtitle.

17 (4) The local educational agency's plan to ob-
18 tain private business contributions described in sec-
19 tion 1397E(d)(2)(B) of the Internal Revenue Code
20 of 1986 (26 U.S.C. 1397E(d)(2)(B)), except that an
21 otherwise qualified local educational agency shall not
22 be denied a grant as a result of its inability to ob-
23 tain such contributions despite its good faith efforts.

1 **SEC. 104. AUTHORIZED MATCHING REQUIREMENT.**

2 (a) IN GENERAL.—The Secretary shall require a local
3 educational agency to contribute matching funds toward
4 the costs of the program to be carried out with a grant
5 received by the agency under this subtitle.

6 (b) MATCH AMOUNT.—The Secretary shall establish
7 the amount of matching funds to be provided by a local
8 educational agency under this section by using a sliding
9 scale that takes into account the relative poverty of the
10 population served by the local educational agency.

11 (c) DETERMINATION OF AMOUNT CONTRIBUTED.—
12 The Secretary shall allow a local educational agency to
13 satisfy the requirement of this section through in-kind
14 contributions.

15 **SEC. 105. ALLOWABLE USES OF FUNDS.**

16 A local educational agency receiving a grant under
17 this subtitle may use the grant for the following:

18 (1) Repair or modernization of public school fa-
19 cilities to ensure the health and safety of students
20 and staff, including—

21 (A) repairing, replacing, or installing roofs,
22 electrical wiring, plumbing systems, sewage sys-
23 tems, windows, or doors;

24 (B) repairing, replacing, or installing heat-
25 ing, ventilation, or air conditioning systems (in-
26 cluding insulation); and

1 (c) bringing public schools into compliance
2 with fire and safety codes.

3 (2) Modifications necessary to make public
4 school facilities accessible to comply with the Ameri-
5 cans with Disabilities Act of 1990 (42 U.S.C. 12101
6 et seq.) and section 504 of the Rehabilitation Act of
7 1973 (29 U.S.C. 794), except that such modifica-
8 tions shall not be the primary use of the grant.

9 (3) Asbestos abatement or removal from public
10 school facilities.

11 (4) Implementation of measures designed to re-
12 duce or eliminate human exposure to lead-based
13 paint hazards through methods including interim con-
14 trols, abatement, or a combination of each.

15 (5) Upgrading or installation of educational
16 technology and educational technology infrastructure
17 to ensure that students have access to up-to-date
18 educational technology.

19 (6) Upgrading school facilities to make them
20 energy-efficient.

21 (7) Construction of new school facilities that
22 ensure the health and safety of students and staff,
23 are energy-efficient, and include up-to-date edu-
24 cational technology and educational technology infra-
25 structure, including where such construction is eco-

1 nomically or otherwise more feasible than large scale
2 modernization or repair of existing facilities.

3 **SEC. 106. APPLICATION FOR GRANT.**

4 (a) APPLICATIONS REQUIRED.—A local educational
5 agency desiring to receive a grant under this subtitle shall
6 submit an application to the Secretary as such time, in
7 such manner, and containing such information as the Sec-
8 retary may reasonably require.

9 (b) APPLICATION CONTENTS.—Each application de-
10 scribed in subsection (a) shall contain—

11 (1) an assurance that the application was devel-
12 oped in consultation with parents and classroom
13 teachers;

14 (2) a description of the overall condition of the
15 local educational agency's school facilities, including
16 health and safety problems;

17 (3) a description of the capacity of the local
18 educational agency's schools to house current and
19 projected enrollments;

20 (4) a description of the extent to which the
21 local educational agency's schools offer the physical
22 infrastructure, including for educational technology,
23 needed to provide all students a high-quality edu-
24 cation;

1 (5) a description of the improvements to be
2 supported with funds provided under this subtitle;

3 (6) a cost estimate of the proposed improve-
4 ments;

5 (7) an identification of other resources that are
6 available to carry out the activities for which funds
7 are requested under this subtitle; and

8 (8) such other information and assurances as
9 the Secretary may reasonably require.

10 **Subtitle B—Low-Interest Loans for**
11 **Construction, Modernization, or**
12 **Repair of School Facilities**

13 **SEC. 111. LOW-INTEREST LOANS.**

14 (a) **AUTHORITY AND CONDITIONS FOR LOANS.—**

15 Each fiscal year, the Secretary shall make low-interest
16 loans to local educational agencies for the construction,
17 modernization, or repair of public kindergarten, elemen-
18 tary, and secondary educational facilities that are safe,
19 healthy, high-performing, and up-to-date technologically.

20 (b) **PRIORITY; CRITERIA FOR APPROVING LOANS.—**

21 (1) **PRIORITY.**—In making loans under this
22 subtitle, the Secretary shall give priority to local
23 educational agencies described in section 103(a).

1 (2) CRITERIA.—In making loans under this
2 subtitle, the Secretary shall also consider the criteria
3 specified in section 103(b).

4 (c) ALLOWABLE USES OF FUNDS.—A local edu-
5 cational agency receiving a loan under this subtitle may
6 use the loan for any of the activities described in section
7 105.

8 (d) AMOUNT AND CONDITIONS OF LOANS.—In mak-
9 ing loans under this subtitle, the Secretary shall ensure
10 that—

11 (1) the amount of a loan does not exceed the
12 total construction, modernization, or repair costs in-
13 volved, as determined by the Secretary; and

14 (2) the loan is secured in such manner and
15 must be repaid within such period, not exceeding 30
16 years, as may be determined by the Secretary.

17 **SEC. 112. REVOLVING FUND.**

18 (a) ESTABLISHMENT.—There is established in the
19 Treasury a revolving fund to be known as the School Con-
20 struction, Modernization, and Repair Revolving Fund (in
21 this section referred to as the “revolving fund”).

22 (b) CONTENTS OF FUND.—The revolving fund shall
23 consist of—

24 (1) any amounts derived from the loan program
25 carried out under this subtitle; and

1 (2) any amounts appropriated to carry out this
2 subtitle pursuant to section 127.

3 (c) AVAILABILITY.—The revolving fund shall be
4 available to the Secretary, in amounts specified in appro-
5 priations Acts and without fiscal year limitation, to carry
6 out this subtitle.

7 **Subtitle C—General Provisions**

8 **SEC. 121. IMPERMISSIBLE USES OF FUNDS.**

9 No funds received under this title may be used for—

10 (1) payment of maintenance costs; or

11 (2) stadiums or other facilities primarily used
12 for athletic contests or exhibitions or other events
13 for which admission is charged to the general public.

14 **SEC. 122. SUPPLEMENT, NOT SUPPLANT.**

15 A local educational agency receiving a grant under
16 subtitle A or a loan under subtitle B shall use such Fed-
17 eral funds only to supplement and not supplant the
18 amount of funds that would, in the absence of such Fed-
19 eral funds, be available for construction, modernization,
20 and repair of public kindergarten, elementary, and sec-
21 ondary educational facilities.

22 **SEC. 123. MAINTENANCE OF EFFORT.**

23 A local educational agency may receive a grant under
24 subtitle A or a loan under subtitle B for any fiscal year
25 only if the Secretary finds that either the combined fiscal

1 effort per student or the aggregate expenditures of the
2 agency and the State involved with respect to the provision
3 of free public education by the agency for the preceding
4 fiscal year was not less than 90 percent of the combined
5 fiscal effort or aggregate expenditures for the second pre-
6 ceding fiscal year.

7 **SEC. 124. SPECIAL RULE.**

8 Each local educational agency receiving a grant under
9 subtitle A or a loan under subtitle B shall ensure that,
10 if the agency carries out construction, modernization, or
11 repair through a contract, the process for any such con-
12 tract ensures the maximum number of qualified bidders,
13 including small, minority, and women-owned businesses,
14 through full and open competition.

15 **SEC. 125. APPLICATION OF GEPA.**

16 The grant program under subtitle A and the loan
17 program under subtitle B are applicable programs (as that
18 term is defined in section 400 of the General Education
19 Provisions Act (20 U.S.C. 1221)) subject to section 439
20 of such Act (20 U.S.C. 1232b).

21 **SEC. 126. REPORTING.**

22 (a) **REPORTS BY LOCAL EDUCATIONAL AGENCIES.—**
23 Not later than December 31 of each fiscal year, each local
24 educational agency receiving a grant under subtitle A or

1 a loan under subtitle B shall submit to the Secretary a
2 report on the agency's use of such grant or loan funds.

3 (b) REPORTS BY SECRETARY.—Not later than De-
4 cember 31 of each fiscal year, the Secretary shall submit
5 to the Committee on Education and the Workforce of the
6 House of Representatives and the Committee on Health,
7 Education, Labor, and Pensions of the Senate a report
8 on grants and loans made under this title, including the
9 Secretary's efforts pursuant to sections 103(a) and
10 111(b)(1), the types of construction, modernization, and
11 repair funded, and the number of students impacted, in-
12 cluding the number of students counted under section
13 1124(c) of the Elementary and Secondary Education Act
14 of 1965 (20 U.S.C. 6333(c)).

15 **SEC. 127. AUTHORIZATION OF APPROPRIATIONS.**

16 (a) IN GENERAL.—To carry out subtitles A, B, and
17 C of this title, there are authorized to be appropriated
18 \$6,400,000,000 for fiscal year 2007 and such sums as
19 may be necessary for each of fiscal years 2008 through
20 2011.

21 (b) ALLOCATION.—Of the amount appropriated pur-
22 suant to this section for each fiscal year—

23 (1) not less than 85 percent shall be reserved
24 to carry out subtitle A; and

1 (2) not more than 15 percent may be reserved
2 to carry out subtitle B.

3 **TITLE II—EDUCATIONAL**
4 **TECHNOLOGY FUNDING**

5 **SEC. 201. EDUCATIONAL TECHNOLOGY FUNDING.**

6 Section 2404(a) of the Elementary and Secondary
7 Education Act of 1965 (20 U.S.C. 6754(a)) is amended
8 to read as follows:

9 “(a) IN GENERAL.—To carry out subparts 1 and 2,
10 there are authorized to be appropriated, and there are ap-
11 propriated, \$1,000,000,000 for fiscal year 2007.”.

○